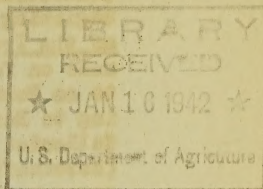


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Cotton 434, Part I.

Issued December 19, 1941

UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL ADJUSTMENT ADMINISTRATION
WASHINGTON, D. C.



County Office

Instructions Pertaining to Refunds of Penalties
Erroneously, Illegally, or Wrongfully Collected with Respect
to the Marketing of Cotton During the
Marketing Years Beginning with August 1, 1939

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Section 1. Introductory. These instructions outline the procedure for filing and handling of claims for refunds of any penalty erroneously, illegally, or wrongfully collected in connection with cotton marketing quotas for the marketing years beginning with August 1, 1938, and covered into the general fund of the Treasury. Claims covered by these instructions shall be made on form Cotton 433, "Claim for Refund" (hereinafter referred to as Form 433), pursuant to form Cotton 432, "Regulations Pertaining to Refunds of Penalties Erroneously, Illegally, or Wrongfully Collected with Respect to Marketing in Excess of Marketing Quotas" (hereinafter referred to as the regulations), printed on the reverse side of Form 433.

Sec. 2. Who may file a claim. Section 1 of the regulations describes the persons who are eligible to make claim. Any person who asserts that he is eligible shall be permitted to execute and file a Form 433 with the county committee although the committee believes that such person is not eligible, under the regulations, to file a claim. If two or more persons are eligible for a refund with respect to cotton marketed from the same farm during the same marketing year, no claim filed by any one or more of such persons shall be approved until the interest of every person in (1) the cotton produced on and designated to be marketed in connection with the farm, (2) the cotton marketed during the marketing year, and (3) the money received in connection with the farm has been determined. If there is more than one claimant and all the claimants desire to appoint a trustee to receive and distribute any payment made under the claim, such trustee shall be appointed on Form No. AAA-381 or AAA-382, and the person so designated shall execute the Acceptance of Trust on such form.

Sec. 3. Preparation of form Cotton 433. "Claim for Refund." The county committee or its representative shall assist in the preparation of Form 433 which shall be prepared in triplicate (one white and two yellow copies) as follows:

1. Enter in the spaces indicated the name of the State and county, the State and county code number and farm serial number, the date the claim was received in the county office, and the marketing year which shall be the marketing year with respect to which the penalties claimed as a refund were collected. This marketing year will not necessarily be the marketing year in which the penalties were collected but will be the marketing year in which the cotton was marketed or was erroneously considered as marketed. (Claims with respect to penalties erroneously, illegally, or wrongfully collected in connection with the 1938-1939 marketing year must be made on form Cotton 229 and such claims are not covered by these instructions.) The date the claim was received in the county office should not be earlier than the date the claim was signed by the claimant. If a claim was made on any other form

or in writing before the execution of Form 433, the date the claim was received will be the date on which such other form or writing was received in the county office and such other form or writing shall be attached to the Form 433.

2. The information to be entered in the table, paragraph 2, Part I, of Form 433 shall be taken from the farm account for the marketing year, form Cotton 317 for the 1939-1940 marketing year and form Cotton 450 or 450-A for the 1940-1941 and 1941-1942 marketing years. The table shall be executed as follows:

(a) Enter in the heading of the table, in the spaces provided, the normal yield established for the farm, the actual yield per acre, the acreage allotment, the acres planted to cotton, the total production of cotton on the farm, the amount of carry-over penalty-free cotton not under the Commodity Credit Corporation loan (this will be the amount of carry-over penalty-free cotton not under the loan at the beginning of the marketing year plus the amount of carry-over penalty-free cotton under the loan and which was withdrawn during the marketing year), and the final farm marketing quota. (The entry in the space "Final farm quota" must equal the entry in the space "Acres allotted" multiplied by the entry in the space "Normal Yield" or in the space "Actual yield," whichever is the larger, plus the entry in the space "Carry-over penalty-free cotton.")

(b) Enter in column (A) the name of each producer on the farm in the order shown on the farm account.

(c) Enter on line (1) of column (B) for each producer the amount of cotton carried over into the marketing year as subject to penalty at the rate of 2 cents per pound. For claims filed with respect to the 1941-1942 marketing year, no entries will be made in column (B) since carry-over cotton subject to penalty at the rate of 2 cents per pound will have been converted into an amount of carry-over penalty and penalty-free cotton on the basis of the rate of penalty applicable to the marketing year. Enter on line (1) of column (B) opposite the word "Total" the total amount of carry-over penalty cotton subject to penalty at the rate of 2 cents per pound.

(d) Enter on line (1) of column (C) for each producer the amount of his share of the final farm marketing quota from the farm account. Enter on line (1) of column (C) opposite the word "Total" the sum of the shares of the final marketing quota. Such total should equal the final farm quota as entered in the heading of column (H).

(e) Enter on line (2) of column (C) for each producer the amount of his share of the total cotton marketed in

connection with the farm. Enter on line (2) of column (C) opposite the word "Total" the total amount of cotton marketed in connection with the farm during the marketing year.

(f) Enter in column (D) for each producer the amount of cotton marketed subject to penalty, which will be the amount by which the entry on line (2) of column (C) for the producer exceeds the entry on line (1) of column (C). Enter in column (D) opposite the word "Total" the sum of the entries in column (D).

(g) If an entry appears in both column (D) and line (1) of column (B) for any producer, enter on line (2) of column (B) for such producer the result obtained by multiplying the smaller of (i) the entry in line (1) of column (B) or (ii) the entry in column (D) by 2 cents per pound. Enter on line (2) of column (B) opposite the word "Total" the total amount of penalties incurred at the rate of 2 cents per pound.

(h) Enter on line (1) of column (E) for each producer the amount by which the entry in column (D) exceeds the entry in line (1) of column (B) for such producer. Enter on line (1) of column (E) opposite the word "Total" the sum of the entries on lines (1) of column (E).

(i) For claims filed with respect to cotton produced in the marketing year 1941-1942, strike out the figure "3" in the heading of column (E) and insert in lieu thereof the rate of penalty applicable to the marketing year.

(j) Enter on line (2) of column (E) for each producer the result obtained by multiplying the entry on line (1) of the column by the rate of penalty shown in the heading thereof. Enter on line (2) of column (E) opposite the word "Total" the sum of the entries on line (2) of column (E).

(k) Enter on line (1) of column (F) for each producer the amount of penalties collected from such producer and covered into the general fund of the Treasury. This entry will represent the amount shown on the farm account to have been transferred for the producer from the special deposits account to the general fund plus the amount, if any, collected by set-off against the producers' agricultural payments and deposited directly into the general fund. In other words, it will be the amount remitted for the producer less the amount refunded to him from the special deposits account on Standard Form No. 1047 plus the amount collected by set-off and deposited directly into the general fund. Enter on line (1) of column (F) opposite the word "Total" the sum of the entries in lines (1) of column (F).

(1) Enter on line (2) of column (F) for each producer the amount of the penalty determined to have been incurred, which will be the sum of the entries for each producer on line (2) of column (B) and line (2) of column (E). Enter on line (2) of column (F) opposite the word "Total" the sum of the entries on lines (2) of column (F).

(m) Enter in column (G) for each producer the amount deposited to the general fund in excess of the determined penalty, which will be the amount by which the entry in line (1) of column (F) for the producer exceeds the amount in line (2) of column (F) for that producer. Enter in column (G) opposite the word "Total" the sum of the entries in column (G).

(n) Enter in column (H) opposite the word "Total" the result obtained by subtracting the entry on line (2) of column (F) opposite the word "Total" from the entry on line (1) of column (F) opposite the word "Total." If the entry on line (2) of column (F) opposite the word "Total" exceeds the entry on line (1) thereof, there were no excess funds deposited to the general fund for the farm, and a further review should be made of the farm account to determine that the correct amount of penalties have been collected.

(o) Enter in the heading of column (H) the percentage (carried two places beyond the decimal) derived by dividing the entry in column (H) opposite the word "Total" by the entry in column (G) opposite the word "Total."

(p) Enter in column (H) for each producer for whom an entry appears in column (G) the result obtained by multiplying the entry in column (G) for such producer by the percentage in the heading of column (H). The sum of the entries so obtained should equal the entry in column (H) opposite the word "Total."

3. Enter in paragraph 3 of Part I a full and concise statement of the facts on which the claim is based and a full and concise explanation of the circumstances in case the burden of the payment of the penalty claimed is now borne in whole or in part by a person other than the one who originally bore such burden. Stereotyped statements must not be used. The statement can, in most instances, be verified by those records of the county association which were used as a basis for preparing revised farm accounts. If additional space is required for the statement, sheets of plain bond paper should be securely attached to Form 433 and identified by the appropriate State and county code and farm serial numbers. Some examples of the reasons for the penalty, being erroneously, illegally, or wrongfully collected are as follows:

- (i) "Penalties were collected upon the basis that the total production of cotton on the farm was above 1000 pounds. It was later determined that this was in error and the actual production was less than 1000 pounds.
- (ii) "The acreage allotment was originally determined to be 10 acres and the farm marketing quota and penalties collected were computed on this basis. The allotment was revised upward to 11 acres, which had the effect of increasing the final farm marketing quota to 2000 pounds.
- (iii) "Cotton was marketed from the farm and the penalties due were not collected at that time. The producers on the farm were placed on the register of indebtedness and the amount due was collected by set-off against 1940 agricultural conservation payments, but before the producers were notified the amount due was also remitted by the producers."

4. Enter in paragraph 4 of Part I the name and full mail address of every person who is entitled to make claim and the amount claimed by each such person or, if he or his representative does not sign the claim, the amount which the county committee determines that he is entitled to claim. If one of several persons entitled to make claim has already submitted a claim on Form 433, the words "Claim previously submitted" shall be entered in the right margin opposite such person's name. Normally, these persons will be the persons whose names appear in column (A) of the table and for whom entries appear in column (H) of the table. It will be assumed that the person whose names appear in column (A) of the table bore the burden of the payment of the penalty and that each is entitled to claim the amount entered opposite his name in column (H) of the table. If a different person is claiming such amount in his own right, an explanation as to why he is entitled to claim must appear in paragraph 3. Where the claimant is a married woman her full Christian name, middle initial, and surname shall be entered, unless she is acting in a representative capacity, in which case her name must be entered exactly as on the document authorizing her to act.

Sec. 4. Signatures of claimants. After all necessary data have been entered the signature of each applicant shall be affixed of Form 433 in ink or indelible pencil. Signatures on the claim should be in the style set forth in ACP-16, "Instructions on Signatures and Authorizations." The claimant's signature must agree with his name as it appears above, and must be in the original handwriting of such claimant. (In case a person signs as trustee for the claimants, Form No. AAA-381 or AAA-382 must be executed and filed with the county committee.)

The county committee is charged with the responsibility of determining that a person who signs a claim for refund in a representative capacity has the authority so to act, for the signing of Form 433 by a member of the committee shall constitute the certification of such committee that each person who signs the form in a representative capacity does possess the necessary authority. In the event the members of the committee do not have the personal knowledge that each such person has proper authority, they should require such person to submit evidence of his authority. (See ACP-16 and Forms Nos. AAA-379, AAA-380, AAA-381, and AAA-382 as to what constitutes acceptable evidence of such authority.) No written evidence of authority need be attached to the Form 433 when it is submitted to the State office for certification.

If any interested person who otherwise would share in the refund refuses to sign the Form 433, a statement by such person, setting forth his reason for refusing to sign, should be attached to the Form 433. If such statement cannot be obtained, there should be attached to the Form 433 a statement signed by a member of the county committee setting forth the reasons for the refusal of the claimant to sign the claim or to make the required statement. If for any other reason the signature of any person who otherwise would share in the refund cannot be obtained, the reason for the failure of such person to sign shall be entered on the Form 433 in the space where his signature would otherwise have been affixed and such entry shall be initialed by a member of the county committee.

Immediately upon receipt of the Form 433 with the signature of one or more claimants affixed thereto in the county office the date of its receipt shall be recorded on the face thereof in the space provided.

Sec. 5. Certification of the county committee. The county committee shall determine on the basis of all information available to it whether the data and representations on the claim are correct and approve or disapprove it accordingly. If approved, one member of the committee shall enter the date of approval and affix his signature in the space provided. If disapproved, a statement in triplicate signed by at least one member of the committee and setting forth in detail the reasons for disapproval shall be attached to the claim.

Sec. 6. Distribution and transmittal to State office. When approved or disapproved, the original Form 433, together with the original of each statement constituting a part of the claim or required by these instructions to be attached to the claim, shall be transmitted to the State office, the first copy retained in the county office and the second copy made available to the claimant(s).

